

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

SAMUEL STARKEY,

Defendant.

8:17CR242

ORDER

This matter is before the Court on defendant Samuel Starkey's ("Starkey") pro se motion for compassionate release (Filing No. 113) under 18 U.S.C. § 3582(c)(1)(A). In pertinent part, that statute permits Starkey to move the Court to "reduce [his] term of imprisonment" for "extraordinary and compelling reasons" thirty days after the warden of the facility where Starkey resides receives a request to file such a motion on Starkey's behalf. *Id.* § 3582(c)(1)(A)(i); *see also United States v. Raia*, 954 F.3d 594, 595 (3d Cir. 2020).

Starkey reports that on April 30, 2020, he "applied for compassionate release with the Warden of FPC, Yankton, where he is incarcerated," based on his increased risk of serious illness from COVID-19 due to his compromised immune system but has not received any relief. Starkey requests that the Court appoint counsel to assist him in this matter.

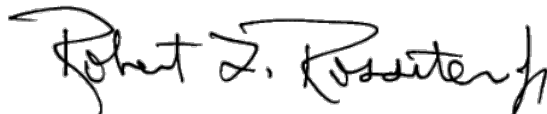
The Court has reviewed Starkey's motion and finds he has potentially raised a colorable claim under § 3582(c)(1)(A). The Court further finds appointment of counsel would help the Court determine whether relief is warranted under that section. Accordingly,

IT IS ORDERED:

1. The Federal Public Defender for the District of Nebraska is appointed to represent Starkey for the limited purpose of determining whether there are extraordinary and compelling reasons to reduce his term of imprisonment.
2. In the event the Federal Public Defender should decline this appointment because of a conflict of interest or on the basis of the Amended Criminal Justice Act Plan, the Federal Public Defender shall provide the Court with a draft appointment order (CJA Form 20) bearing the name and other identifying information of the CJA Panel attorney identified in accordance with the Amended Criminal Justice Act Plan for this district.
3. If upon his review the Federal Public Defender should conclude that Starkey's motion is frivolous, the Federal Public Defender may move to withdraw as counsel.
4. The government shall respond to Starkey's motion on or before June 17, 2020. The Federal Public Defender shall promptly file any supplementary briefing or evidence necessary to the Court's disposition of the motion. Absent an extension, Starkey's motion shall be deemed submitted as of June 25, 2020.
5. The U.S. Probation and Pretrial Services Office is authorized to disclose Presentence Investigation Reports to the Federal Public Defender and the United States Attorney for the purpose of evaluating Starkey's motion. The Federal Public Defender shall provide the Presentence Investigation Report to any subsequently appointed or retained counsel. In accordance with the policy of the Federal Bureau of Prisons, no Presentence Investigation Report shall be provided to inmates.
6. The probation office is directed to investigate Starkey's compassionate-release request and promptly prepare a report summarizing the results of that investigation to be filed under seal.

Dated this 10th day of June 2020.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Rossiter, Jr.", with a stylized flourish at the end.

Robert F. Rossiter, Jr.
United States District Judge